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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/049,773 | 01/18/2002 | Stefan Lind | 1952 | 4598 |
| 7590 | 07/23/2004 | | EXAMINER | |
| Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743 | | | GONZALEZ, MADELINE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2859 | |

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------|---|----------------------------------|
| Advisory Action | Application No. | Applicant(s) |
| | 10/049,773 Examiner Madeline Gonzalez | LIND, STEFAN Art Unit 2859 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires ____ months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: ____.

3. Applicant's reply has overcome the following rejection(s): ____.
4. Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Attachment.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: ____.

Claim(s) objected to: ____.

Claim(s) rejected: 1,2 and 4-8.

Claim(s) withdrawn from consideration: ____.

8. The drawing correction filed on ____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). ____.

10. Other: ____.

Response to Arguments

1. Applicant's arguments filed on June 28, 2004 have been fully considered but they are not persuasive.
2. In response to applicant's argument that the German Patent No. 894,918 [hereinafter the German Patent] does not disclose an angle fixing in which two limbs are lockable with one another by a single locking element: The German Patent teaches the use of a screw 9 locking limbs 4 and 5 with one another. The broadest definition of the word "lockable" means "to make fast by interlacing of parts" (See Merriam-Webster's Collegiate Dictionary, 10th ed.) and the screw 9 is fastening limb 4 with limb 5. Therefore, the German Patent discloses two limbs lockable with one another by a single locking element.
3. In response to applicant's argument that the limbs in the German Patent does not have a substantially longitudinal cross-sectional area over a width of the limbs: The German Patent discloses limbs 4 and 5 having a constant longitudinal sectional area over a width of the limbs 4 and 5, as shown in Fig 2 and as claimed by applicant.
4. In response to applicant's argument that the limbs in the German Patent are not substantially identical: The term "substantially" is a broad term (see MPEP 2173.05(d)). As shown in Fig. 1 of the German Patent, the limbs 4 and 5 are substantially identical.

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5. In response to applicant's argument that the limbs in the German Patent are not pivotable about an imaginary pivot axis relative to one another, but instead are pivotable about a real physical axis: The screw 9 is real, however the axis can be imaginary.

6. In response to applicant's argument that the Austrian Patent No. 335,145 fails to show certain features of applicant's invention claimed in claim 5, it is noted that the features upon which applicant relies (i.e., the limbs are lockable; and the limbs are arcuate) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 5 does not include limitations stating that the limbs are lockable, and that the limbs are arcuate.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeline Gonzalez whose telephone number is (571) 272-2243. The examiner can normally be reached on Monday-Friday (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MG



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